

### REMARKS/ARGUMENTS

Claims 17-20 and 22-28 are pending in the present application. By the present action, claims 17, 19-20, and 28 are amended. Reconsideration of the claims is respectfully requested.

#### **I. Examiner Interview**

The Examiner is thanked for the courtesy of an interview, even though no agreement was reached during the conversation.

#### **II. 35 U.S.C. § 112, Second Paragraph: Claims 17 and 18**

The examiner has rejected claims 17 and 18 under 35 U.S.C. § 112, second paragraph, as being indefinite for the use of the term "*lexical instructions*". This rejection is respectfully traversed.

The Merriam Webster Online Dictionary ([www.m-w.com](http://www.m-w.com)) defines *lexical* thus: "*of or relating to words or the vocabulary of a language as distinguished from its grammar and construction*". Thus, this word is not believed to require further interpretation. However, to avoid unnecessary arguments, the word *lexical* has been deleted from these two claims.

Therefore the rejection of claims 17 and 18 under 35 U.S.C. § 112, second paragraph has been overcome.

#### **III. 35 U.S.C. § 103, Obviousness: Claims 17-25 and 27-28**

Claims 17-25 and 27-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin, Electronic Shopping Agent Which Is Capable of Operating with Vendor Sites Which Have Disparate Formats, U.S. Patent No. 6,381,597, April 30, 2002 (hereinafter "Lin") in view of Reuhl et al., System and Method for Automatic Updating and Display of Retail Prices, U.S. Patent No. 5,873,069, February 16, 1999 (hereinafter "Reuhl"). This rejection is respectfully traversed.

The rejection states:

As per claim 17, Lin discloses,

A database ... comprising: a pricing profile table ...  
a site template table ... and  
a price table ...

Lin does not explicitly disclose a scan interval.

However, Reuhl discloses the scan interval (column 11 lines 31-38), as well as the elements already disclosed by Lin (i.e. pricing agent, list of included items, lexical instructions for parsing, price table). It would have been obvious to a person of ordinary skill in the data processing art to combine the above two references because the scan interval disclosed by Reuhl would have enabled Lin's database system to automatically and frequently check prices of a plurality of products that constantly

changes and provide price comparison among competitors to buyers, as taught in Reuhl's disclosure.

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The determination of "nonobviousness" is made after establishing the scope and content of prior art, the differences between the prior art and the claims at issue, and the level of ordinary skill in the pertinent art. Graham v. John Deere, 383 U.S. 1 (1966). In addition, all limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 21 U.S.P.Q.2d 1031, 1034 (Fed Cir. 1994).

The claims have been amended to more clearly recite an embodiment of the invention, including the recitation in the preamble that the tables are used by a pricing agent and recitations in the body of the claim that the records in the price table include a date and time the records was created and that price data is collected over a period of time to produce historical data. These amendments are supported by the application at page 19, lines 4-6 and page 30, lines 20-22. Claim 17, as amended, reads:

17. A database used in managing a consumer pricing agent in a computer, comprising:
- a pricing profile table comprising a set of profile records, each record identifying a URL site, a list of included items, a scan interval, and a pointer to a site template;
  - a site template table comprising a set of site templates, each site template comprising instructions for parsing a data stream to identify given data; and
  - a price table comprising a set of pricing records, each record identifying an item name, an associated price value, a date and a time said record was created, and a source, wherein price data corresponding to said item name is automatically collected with a periodicity equal to the scan interval to produce historical data.

It is submitted that the rejection has failed to state a *prima facie* obviousness rejection because the proposed combination would not meet the claimed invention. More specifically, the references relied on do not disclose "*a pricing profile table comprising ... a scan interval*", nor do they disclose "*wherein price data corresponding to said item name is automatically collected with a periodicity equal to the scan interval to produce historical data.*" The rejection acknowledges that Lin does not disclose a scan interval, but asserts that Ruehl discloses this feature, citing column 11, lines 31-38:

FIGS. 9 and 10 illustrate the steps in utilizing the automatic pricing change function of the system. As described hereinabove, the price change function of the system in accordance with the present invention for pricing products in the database implements a pricing strategy (logic) wherein the system user's price is the lowest price in a specified geographic area on a product-by-product basis. The pricing program 204 is run automatically at preselected times, e.g., preselected times each day. Alternatively, program 204 can be run manually. The pricing program 204, in general operation, selects the current active price of the product, compares it with the lowest competitor's price in a specified market, calculates a new user's price to be lower than the competitor's price, changes the ending cent in accordance with a cent code that corresponds to market type, i.e., profit margin of the product, compares the cent coded price with the competitor's price, calculates a new active user price to be lower than or

equal to the competitor's price, stores the new active user price in the ITEM PRICE table.

Ruehl, column 11, lines 25-43

Ruehl is directed to a system for use by a "merchant ... to manage complex pricing standards for a plurality of goods (or services)" (Ruehl, column 3, lines 5-8). The pricing program of Ruehl, which runs periodically, is a program to review competitors' prices, determine if the current merchant needs to change prices, set values for current prices, and print price tags. Ruehl's pricing program has nothing to do with automatically collecting price information from web sites. Instead, the information used by Ruehl is received by data entry, rather than being automatically collected by the computer system. This is shown by the following excerpt from this patent:

The Competitor Shopping Entry screen (CPTSHP) 1010 allows merchandising to enter competitor shopping information. From GMEN 402, CPTSHP 1010 is selected, and as shown in FIG. 18, the market, competitor name, competitor location and shopped date are entered. All competitor items to be shopped by the competitor are then displayed. The user is then prompted as to whether the competitor's newly shopped price is the same (enter "No" or "N") or different (enter "Yes" or "Y") from old price. If "yes", the new shopped price is then entered, and the price type is automatically determined, namely, SALE or REG.

Ruehl, column 15, lines 33-44, emphasis added

Thus, Ruehl does not disclose a system that automatically and periodically gathers information. The only acts this patent will automatically perform are reviewing prices and printing out new price tags. Ruehl does not automatically perform information collection, but relies on manual data entry to receive this information.

Given that neither Lin nor Ruehl disclose or suggest automatically collecting pricing information at periodic intervals, these references do not meet the claimed features of "a pricing profile table comprising ... a scan interval", nor do they disclose "wherein price data corresponding to said item name is automatically collected with a periodicity equal to the scan interval to produce historical data." Therefore, the rejection of claim 17 is overcome. Further, independent claim 20 is rejected for reasons similar to the ones used against claim 1, so the rejection of claim 20 is also overcome.

Dependent claims 18-19, 21-25, and 27-28 are each dependent on either claim 17 or claim 20, so the rejection of these claims is also overcome. However, many of the dependent claims also provide other distinctions:

Claim 18 additionally recites "a threshold table comprising a set of threshold records, each record identifying a threshold type, a threshold value, and a threshold comparison operator". Against this claim, the rejection cites the following excerpts from Ruehl:

That is, as data records in the tables regarding system company prices and competitor prices are updated, a pricing software program is invoked which automatically reprices items in accordance with a predetermined pricing standard or rules.

Ruehl, column 3, lines 44-48

In overall operation, the system receives competitor price data for items, compares the competitors' prices with the active price, and automatically changes the active price in accordance with certain rules ...

Ruehl, column 4, lines 7-10

The pricing program 204 is run automatically at preselected times, e.g., preselected times each day. Alternatively, program 204 can be run manually. The pricing program 204, in general operation, selects the current active price of the product, compares it with the lowest competitor's price in a specified market, calculates a new user's price to be lower than the competitor's price, changes the ending cent in accordance with a cent code that corresponds to market type ...

Ruehl, column 11, lines 35-40

The pricing functions include, at step 604, deleting pricing information for an item for which the price has expired, e.g., sale price which have ended; undoing a price-percent-off promotion, at step 606; undoing a dollars-off promotion at step 608; at step 610, adding a percent-off promotion; at step 612, adding a dollars-off promotion; at step 614, adding new shopping information, competitor ad information, user price changes, etc.; at step 616, adding user ad information. Each entry of pricing function or pricing information, invokes the specific pricing algorithm, referred to as "2" and depicted in FIG. 10.

Ruehl, column 11, lines 53-63

All of these excerpts are discussing the pricing program 204. It is acknowledged that this program performs comparisons between existing prices and competitor's prices and when these are different, the pricing program is triggered to alter the current price. However, this so-called triggering event is not presented in a table, but is hard-coded into the program. This means that if a different trigger is desired (e.g., whenever the competitor's price equals a given point), the program itself must be changed. This is in contrast to the invention recited in claim 18, which relies on entries in a table to change a trigger. Thus, this claim is separately allowable.

Claim 19 additionally recites "*wherein each profile record further includes a list of excluded items such that information is not collected for a given item in the list of excluded items, even if the given item matches an included item in a fuzzy matching algorithm*". The Examiner is thanked for noting the overly broad interpretation of this claim, which has been amended to more clearly recite the desired embodiment of the invention. Neither of the references relied on show that some items are excluded, even when found during fuzzy matching algorithms. This claim is separately allowable.

Therefore, the rejection of claims 17-25 and 27-28 under 35 U.S.C. § 103(a) has been overcome.

**IV. 35 U.S.C. § 103, Obviousness: Claim 26**

The examiner has rejected claim 26 under 35 U.S.C. § 103(a) as being unpatentable over Lin and Ruehl in view of Dworkin, System and Method for Automated Selection of Equipment for Purchase Through Input of User Desired Specifications, U.S. Patent No. 4,992,940, February 12, 1991 (hereinafter "Dworkin"). This rejection is respectfully traversed.

The rejection states:

As per claim 26, Lin and Ruehl disclose the database of claim 25 as discussed above in claim 25 rejection.

Lin and Ruehl do not explicitly disclose a sending of an email.

However, Dworkin discloses a sending of an email (column 4 lines 13-24, column 10 lines 9-17). It would have been obvious to a person of ordinary skill in the data processing art to combine the above references because Dworkin's method of sending an email would have enabled Lin and Ruehl's database system to contact/notify the vendor, supplier, user, or administrator for further actions/services, as taught by Dworkin in his disclosure.

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Claim 26 is dependent, through claims 25 and 18, on claim 17 and should be allowed for the reasons set forth in both the discussion of claim 17 and the discussion of claim 18. More specifically, neither Lin nor Ruehl disclose or suggest automatically collecting pricing information at periodic intervals. Neither do they disclose or suggest a table that contains threshold records having a threshold type, a threshold value, and a threshold comparison operator. Dworkin is not cited as showing automatically collecting pricing information at periodic intervals or a table of threshold records and this reference does not show or suggest these features.

Therefore, the rejection of claim 26 under 35 U.S.C. § 103(a) has been overcome.

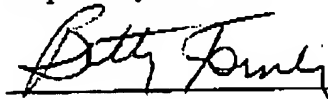
**V. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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